

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>LAMONT CAESAR,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 1:19-cv-276-SPB-RAL</b>
	)	
<b>PENNSYLVANIA DEPARTMENT OF CORRECTIONS, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

The within civil rights action was filed in the Forest County Court of Common Pleas and removed to this Court on September 23, 2019. ECF No. 1. The matter then referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation (“R&R”) in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and the Local Rules for Magistrate Judges.

On April 15, 2020, Magistrate Judge Lanzillo issued an R&R (ECF No. [42]) recommending that:

- A. the motion to dismiss filed by the Pennsylvania Department of Corrections and Kim Smith, ECF No. [29], be granted and the claims against these Defendants be dismissed with prejudice;
- B. the motion to dismiss filed by Correct Care Solutions and Nurse Marlowe, ECF No. [23], be granted in part, and the Plaintiff’s Eighth Amendment claims against these Defendants be dismissed with prejudice; and
- C. the Court decline to exercise supplemental jurisdiction over Plaintiff’s state law professional negligence claim against Defendant Marlowe, and remand that claim to the Court of Common Pleas for the 37th Judicial District of the Commonwealth of Pennsylvania, Forest County Branch.

Plaintiff's objections to the R&R were due to be filed no later than April 29, 2020. As of this date, no objections have been received.

Accordingly, after *de novo* review of the Complaint and documents in the case, together with the Magistrate Judge's report and recommendation, the following order is entered:

NOW, this 30<sup>th</sup> day of April, 2020, IT IS ORDERED that the motion to dismiss filed by the Pennsylvania Department of Corrections and Kim Smith, ECF No. [29], shall be, and hereby is, GRANTED. Accordingly, Plaintiff's claims against these Defendants are hereby DISMISSED with prejudice and without leave to further amend.

IT IS FURTHER ORDERED that the motion to dismiss filed by Correct Care Solutions and Nurse Marlowe, ECF No. [23], shall be, and hereby is, GRANTED as to Plaintiff's claims under 42 U.S.C. §1983 for the alleged violation of his Eighth Amendment rights. Plaintiff's §1983 claims against Defendants Correct Care Solutions and Nurse Marlowe are hereby DISMISSED with prejudice and without leave to further amend.

IT IS FURTHER ORDERED that the motion to dismiss filed by Defendants Correct Care Solutions and Nurse Marlowe, ECF No. [23], shall be and hereby is DISMISSED without prejudice as it relates to Plaintiff's state law professional negligence claim against Defendant Marlowe. Inasmuch as the Court declines to exercise supplemental jurisdiction over Plaintiff's professional negligence claim against Nurse Marlowe, said claim shall be, and hereby is, remanded FORTHWITH for further proceedings to the Court of Common Pleas for the 37th Judicial District of the Commonwealth of Pennsylvania, Forest County Branch.

Finally, IT IS ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on April 15, 2020 (ECF No. [42]) shall be, and hereby is, adopted as the opinion of the Court.

There being no further pending claims before the Court in the above-captioned matter, the Clerk is directed to mark this civil action "CLOSED."

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

SUSAN PARADISE BAXTER  
United States District Judge

cc: Counsel of Record  
The Honorable Richard A. Lanzillo  
(via CM/ECF)